

EXHIBIT 10

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May 30, 2024

Jack Wheat, Esq. – via email jwheat@mcbayerfirm.com
McBrayer
500 West Jefferson Street
Suite 2400
Louisville, Kentucky 40202

Re: Highline Spirits Company, LLC adv Vosa Spirits
Our Ref.: 224425/2

Dear Jack:

We are in receipt of your follow up letter of May 16, 2024, related to the use of the words **HIGH LINE** in connection with Vosa's products. As we noted in our May 2 letter, Vosa's ready to drink products do not present a likelihood of confusion with Highline Spirits' products. High Line is not used as the primary brand on Vosa's product, but is merely used descriptively to refer to a type of cocktail. Additionally, in light of numerous third parties using the words High Line in connection with alcohol products, Vosa's and Highline Spirits' products present little likelihood of confusion, particularly in light of recent case law addressing this issue.

The United States District Court for the Southern District of Texas recently addressed a similar dispute between the brands CLASE AZUL and CASA AZUL, finding that plaintiffs failed to establish likelihood of confusion where, like here, "the packaging, marketing, and pricing [were] too far apart to present a significant risk of customer confusion."¹ In particular, the court held that "[the plaintiff's] bottled distilled tequila d[id] not compete with [defendant's] canned tequila soda."² In support of its ruling, the court specifically pointed to a significant difference in price, packaging, and marketing.³ Vosa's and Highline's products can be distinguished on practically identical grounds.

¹ *Casa Tradicion, S.A. de C.V. v. Casa Azul Spirits, LLC*, 2024 WL 1622638 at *12 (S. D. Tex., Apr. 15, 2024)

² *Id.*

³ *Id.*

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As you can see from the below images of Vosa’s products, the name Vosa is prominently displayed as the branding. The words “High Line” are displayed in smaller letters accompanying other descriptive language such as “Vodka Cocktail” and “Lemon.” By contrast, Highline Spirits’ products use the words “High Line” as the primary brand in large central letters accompanied by various images of animals. A cursory glance at either product would reveal that the products are branded under the Vosa and High Line names respectively. Likewise, the designs of the products are dissimilar. Vosa’s products are packaged in cardboard boxes containing metal cans and using bright pastel colors and images of fruit.⁴ Highline Spirits’ products are sold in glass bottles with two-tone rectangular logos featuring various black chimeric animal designs. The fact that Highline Spirits’ products may be mixed into cocktails does not present a likelihood of confusion with canned ready to drink products.⁵ Nothing on Highline Spirits’ Dexter page (referenced your previous letter) resembles Vosa’s products.

Examples of Vosa’s branding:



Examples of Highline’s branding:

⁴ *Id.* at *2 (distinguishing the packaging of a canned soda product in cardboard packaging from distilled liquor sold in distinctive glass bottles).

⁵ *Id.* at *12 (“Although some hard liquors have an affiliated canned soda with some of the hard liquor as an ingredient, nothing in [defendant’s] marketing of its canned soda suggests a relationship to [plaintiff]”).

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In addition to the obvious differences in branding between Vosa and High Line, the term “High Line” is often used descriptively to refer to cocktails.⁶ Vosa’s branding in fact makes this clear by specifying that High Line is a “Vodka Cocktail.” The term “high line” is also in use in connection with various other alcoholic beverages.⁷ The name Highline is commonly used in connection with various trails in the Rocky Mountains such as the trail in Glacier National Park that Highline Spirits references.⁸ In short, beyond the obvious dissimilarity between Vosa’s and Highline Spirits’ products, the term High Line is used descriptively across numerous alcoholic beverages and cocktails further undercutting any likelihood of confusion between the products.

Although we do not see Vosa’s and Highline Spirits’ products as presenting any likelihood of confusion, we are happy to discuss the possibility of a coexistence agreement between the parties or to explore a principal to principal meeting to resolve this matter.

Sincerely yours,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink that reads 'Thomas W. Brooke'. The signature is written in a cursive style with a large, flowing 'T' and 'B'.

Thomas W. Brooke
Christian B. Hecht

⁶ See, e.g. <https://highwest.com/blogs/recipes/high-line/>; <https://punchdrink.com/recipes/high-line-fizz/>; <https://mixthatdrink.com/highline-spritzer/>; <https://www.chelseamarket.com/recipes/the-high-line-smash/>; <https://sweetsouthernprep.com/thirsty-thursday-morimotos-high-line/>

⁷ See, e.g. <https://highlinebrewing.com/>; <https://mountbrewingco.com/products/highline-hazy-low-carb-hazy-ipa/>; <https://www.brewbound.com/news/living-the-dream-brewing-high-line-pilsner-hits-cans/>

⁸ <https://highlinespirits.com/our-story/>

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Cc: Jason Barker, Esq.
Dennis Gonzalez, Esq.